

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

In re:

Keith J. Edwards and
Margaret A. Edwards,

Case No. 14-11819
Chapter 13

Debtors.

In re:

Alfred P. Hasenkopf and
Jeanine M. Hasenkopf,

Case No. 15-10538
Chapter 13

Debtors.

In re:

Peter N. Fraker,

Case No. 15-11441
Chapter 13

Debtor.

**MOTION FOR SANCTIONS AND FOR OTHER RELIEF PURSUANT TO 11 U.S.C. 526(a)(2)
AND NEW YORK RULES OF PROFESSIONAL CONDUCT 4.1, 5.1, 7.1 (a), (c), (h), 7.5 AND 8.4**

Andrea E. Celli, Chapter 13 Trustee makes the following Motion for Sanctions and for Other Relief and states as follows:

1. On July 1, 2015, Stipulations signed by the undersigned, the United States Trustee by Assistant United States Trustee Lisa Penpraze, Scott Bush, Esq. as counsel for Jonathan D. Warner and by Jonathan D. Warner (õStipulationsö) were entered by this Court in the above captioned cases of *Edwards* and *Hasenkopf*.

2. The Stipulations, which resolved the Court's Order to Show Cause dated April 29, 2015 (*In re Edwards*, Case No. 14-11819, Doc. 48) and the Chapter 13 Trustee's Motion for Sanctions and Other Relief (*In re Hasenkopf*, Case No. 15-10538, Doc. 27) were entered on consent with Jonathan D. Warner signing "Individually and as Managing Partner of Warner & Warner, PLLP."

3. In paragraph four of the Stipulations, the undersigned was directed to submit a written report to the Court on or before August 14, 2015, "identifying the issues and whether or not Warner & Warner, PLLC has satisfactorily addressed said issues including whether additional time is needed to resolve particular matters." (Doc. 60 in *In re Hasenkopf* 15-10538 and *In re Edwards*, 14-11819 and 61 in *In re Edwards*, 14-11819).

4. Since the entry of the Stipulations the undersigned has monitored the legal services provided by Samuel B. Warner, including the activities of Jonathan D. Warner in connection with the firm's cases. Issues that have arisen during the monitoring of the firm's activity provide the basis for this request for relief.

5. From the undersigned's view, it appears that 11 U.S.C. 526(a)(2) and New York Rules of Professional Conduct 4.1; 5.1; 7.1 (a), (c), (h); 7.5 and 8.4 have been violated and that Jonathan D. Warner and Samuel B. Warner have engaged in a practice of inaccurately representing themselves to the Court and the public as partners and/or members of Professional Limited Liability Corporation recognized by the State of New York.

6. The undersigned moves at this time for an order on the basis that this information is relevant to the Court's continuing inquiry as to the competency of Jonathan D. Warner and the services provided to debtors by Samuel B. Warner and the firm.

BASIS FOR RELIEF

7. In the last two weeks, four Chapter 13 cases have been filed by Samuel B. Warner. In each case, Samuel B. Warner signed under the firm name of ðWarner and Warner PLLCö:

- a. In re: Barra, Case No. 15-11438;
- b. In re: OðBrien, Case No. 15-11439;
- c. In re: Fraker, Case No. 15-11431; and
- d. In re Hasenkopf, Case No. 15-11443.

8. Jonathan D. Warner and Samuel B. Warner have filed multiple pleadings and other documents under the firm name ðWarner & Warner, PLLCö. Examples include:

- a. Pleadings:
 - 1. Interim Applications for Loss Mitigation Compensation in
 - a. *In re: Kapp*, Case No. 15-10307, Doc. 41;
 - b. *In re Steele*, Case No. 14-11758, Doc. 61;
 - c. *In re Glass*, Case No. 14-12409, Doc. 47;
 - 2. Notice of Motion for Avoidance of Judgment Liens, *In re Sinson*, Case No. 15-10697, Doc. 21;
 - 3. Motion for Order Modifying Debtorø[sic] Chapter 13 Plan, *In re: Brozowski*, Case No. 14-11756); and
- b. Correspondence on ðWarner & Warner, PLLCö letterhead (See *In re: Orner –Makis*, Case No. 15-11348, Docs. 6, 14 and 15; *In re Paeglow*, Case No. 15-10429 Doc. 33).

9. On two websites, Jonathan D. Warner and Samuel B. Warner have continued to identify the firm as ðWarner & Warner, PLLCö. See <http://bankruptcylawcapitaldistrict.com/> and <http://warnerlawyers.com>. References to the firm name of ðWarner & Warner, PLLCö are repeated throughout the websites.

10. Martindale Hubbell's websites <http://www.martindale.com> and www.lawyers.com list Jonathan D. Warner as "Managing Partner" for "Warner & Warner, PLLC" and list Samuel B. Warner as "Partner" in "Warner & Warner, PLLC".

11. Prior to the entry of the Stipulations, Jonathan D. Warner filed an Affidavit with this Court stating that he practices under the firm name of "Warner and Warner PLLC." (In re: Edwards, 14-11819, Doc. 53).

12. Finally, the Stipulations themselves which contain multiple references to his practice with the firm of "Warner & Warner, PLLC" were entered on consent, with Jonathan D. Warner signing "Individually and as Managing Partner of Warner & Warner, PLLP."

13. The New York State Department of State website lists "Jonathan D. Warner PLLC" as an active Domestic Professional Service Limited Liability Company with an initial Department of State Filing date of April 17, 2013, DOS ID #4389692. The DOS Process address for "Jonathan D. Warner, PLLC" is listed as Jonathan D. Warner, PLLC, 610 Warren Street, Apt. 4, Albany, New York 12208.

14. Upon information and belief, and based upon an electronic inquiry of the New York State Department of State Division of Corporations Entity Information website, **no Domestic Professional Service Limited Liability Company or other registered legal entity exists under the name "Warner & Warner, PLLC".**

15. Based upon the foregoing, as it appears that 11 U.S.C. 526(a)(2) and New York Rules of Professional Conduct 4.1, 5.1, 7.1 (a), (c), (h), 7.5 and 8.4 have been violated by Jonathan D. Warner and Samuel B. Warner.

16. The undersigned seeks imposition of sanctions against Jonathan D. Warner and Samuel B. Warner, including, but not limited to, suspension from the practice of law in this Court, disgorgement of all fees awarded in cases filed under the name of ðWarner & Warner, PLLCö and in response to all pleadings referencing ðWarner & Warner, PLLCö as well as such other and further relief as to the Court seems just and proper.

WHERE FORE, the Trustee requests an order imposing sanctions against Jonathan D. Warner and Samuel B. Warner, including, but not limited to, suspension from the practice of law in this Court, disgorgement of all fees awarded in cases filed under the name of ðWarner & Warner, PLLCö and in all pleadings referencing ðWarner & Warner, PLLCö as well as such other and further relief as to the Court seems just and proper.

Dated: July 16, 2015

/s/Andrea E. Celli
Andrea E. Celli
Chapter 13 Standing Trustee